

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ALI SALAAM EL,

Case No. 09-12136

Plaintiff,

vs.

David M. Lawson
United States District Judge

CITY OF DEARBORN, DEARBORN
POLICE, 19th DISTRICT COURT,
ALFRED GRZEGOREK #435, WILLIAM
C. HULTGREN, SCOTT NAGY,
WILLIAM M. DEBIASI, *et al.*,

Michael Hluchaniuk
United States Magistrate Judge

Defendants.

**ORDER GRANTING MOTION TO
STRIKE AMENDED COMPLAINT (Dkt. 16)**

Plaintiff filed this civil rights action on June 3, 2009. (Dkt. 1). This matter was referred to the undersigned for all pretrial purposes by District Judge David M. Lawson. (Dkt. 2). Two defendants filed a motion to dismiss on July 7, 2009. (Dkt. 3). Two other defendants filed an answer to the complaint on July 8, 2009, along with a motion to dismiss. (Dkt. 6, 8). On August 3, 2009, plaintiff filed an amended complaint, along with a response to the first motion to dismiss. (Dkt. 11). On August 19, 2009, two defendants filed a motion to strike the amended complaint. (Dkt. 16). The Court ordered plaintiff to respond to the motion to

strike by September 10, 2009. (Dkt. 18). Plaintiff has not filed any response to the motion to strike.

Defendants point out that, under Rule 15(a), a plaintiff may amend the complaint once as a matter of course, if no responsive pleading has yet been served. If a responsive pleading has been served, a plaintiff must move for leave to amend the complaint. Here, a responsive pleading (the answer filed on July 8, 2009) was filed before plaintiff submitted his amended complaint on August 3, 2009. Plaintiff did not move for leave to amend his complaint. While plaintiff filed a brief in support of his amended complaint, nothing in that pleading addresses Rule 15 or standards applicable to a motion for leave to amend. Further, plaintiff failed to file a response, despite being ordered to do so, to defendants' motion to strike. That order to respond cautioned plaintiff that "**[f]ailure to file a response may result in sanctions, including granting all or part of the relief requested by the moving party.**" (Dkt. 18, emphasis in original).

Based on plaintiff's failure to move for leave to amend his complaint and plaintiff's failure to respond to defendants' motion, the motion to strike is **GRANTED**. Plaintiff's submission, Dkt. 11, is stricken to the extent it purports to be an amended complaint, but, to the extent that it is a response to a motion to dismiss, it will not be stricken.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), objections must be served on this Magistrate Judge.

Date: October 28, 2009

s/Michael Hluchaniuk

Michael Hluchaniuk

United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on October 28, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to: Laurie M. Ellerbrake and John G. Fedynsky, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant: Ali Salaam El, P.O. Box 35562, Detroit, MI 48235.

s/James P. Peltier

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